IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2578 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ASHVINI M KAPADIA

Versus

SOUTH GUJARAT UNIVERSITY

Appearance:

1. Special Civil Application No. 2578 of 1999

MR KI SHAH for Petitioner No. 1

MR DEVANG T SHAH for Petitioner No. 1

MR MUKUND M DESAI for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 10/12/2004

ORAL JUDGEMENT

1. The matter was listed on 8th December, 2004, wherein, the Court had passed the following order :-

"In view of sick notice of Mr. M.M. Desai, S.O. to 10th December, 2004. To be shown in the first board.

By order dated 1st July, 1999, this Court had stayed the order of the University. Therefore, in view of long pendency of petition, it appears that the respondents are required to take fresh decision."

1.1. Even today, Mr. Desai has filed sick note. Hence, it is taken up for hearing today.

2. The petitioner has by way of this petition challenged the Resolution dated 28th March, 1999 of the Senate at annexure-A to the petition.

3. Having perused the relevant record, it appears that this Court [Coram : M.R. Calla, J.] while admitting the matter on 1st July, 1999 had stayed the decision of the South Gujarat University dated 29th March, 1999. The operative portion of the said order reads as under :-

"In the facts and circumstances of this case, the Court finds that the order passed by the Vice Chancellor as contained in the communication dated 29th March, 1999 sent to the petitioner by the Registrar, deserves to be stayed and the same is hereby stayed and it is further made clear that this order passed by the Vice Chancellor shall be no impediment in her working as In-charge Principal till final disposal of this Special Civil Application. Direct Service permitted."

3.1. On the facts and circumstances of the case, it appears that pendency of this petition will prejudice the interest of the respondents. In that view of the matter, rule is made abosolute in terms of interlocutory order. However, it will be open for the respondent University to take fresh decision, in accordance with law.

[K.S. JHAVERI, J.]

/phalguni/